

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

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business in this State or a credit union authorized to do business in this State or a financial institution holding company or an affiliate of a financial institution holding company that is authorized to do business in this State may not, in connection with the extension of credit, interfere with a purchaser's or borrower's free choice of an accounting, tax or attest services provider who is accredited as a certified public accountant, public accountant or enrolled agent, except that the financial institution or credit union may require the provider chosen by the purchaser or borrower to provide adequate evidence of liability insurance or such other written policy requirements as the financial institution or credit union may determine necessary to protect its interest.

See title page for effective date.

CHAPTER 186

H.P. 1049 - L.D. 1487

An Act To Amend the Laws Relating to Automotive Reflective and Tinted Glass

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §1916, sub-§1, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. A side window or rear window is composed of, covered by or treated with a material that ~~has~~ allows a light transmittance of less than 50% 35% net of glass and material; or

Sec. 2. 29-A MRSA §1916, sub-§2, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. The provisions of subsection 1 do not apply to:

- (1) A certificate or other paper required or allowed by law to be displayed;
- (2) The label attached to a window showing the price, estimated mileage and other federally mandated information commonly known as the manufacturer's suggested retail price label;
- (3) Sun-screening or window-tinting material along a 4 inch strip at above the AS-1 line in the top portion of the windshield or, if there is no AS-1 line in the top portion of the windshield, along a 5-inch strip at the top of the windshield. For purposes of this paragraph, "AS-1 line" means the marking that includes the letters "AS," the number "1" and an arrow that is required to be placed on certain safety

glazing materials pursuant to 49 Code of Federal Regulations, Section 571.205 (2006); or

(4) Motor vehicles for which the Chief of the State Police has granted an exception because the health of the owner or a person who usually occupies the vehicle is adversely affected by sunlight. The Chief of the State Police may, upon proper application, provide the owner of a motor vehicle with a certificate of exemption that must be displayed upon the request of a law enforcement officer.

See title page for effective date.

CHAPTER 187

S.P. 527 - L.D. 1500

An Act To Allow the Department of Environmental Protection To Charge Interest for Late Payment of Fees

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §353, sub-§9 is enacted to read:

9. Finance charges. In addition to other remedies specifically authorized in this Title, the department shall charge interest at a rate of 15% per annum and may pursue enforcement, including, but not limited to, penalties pursuant to section 349 and suspension or revocation pursuant to section 341-D, subsection 3 for the failure of a licensee to pay any portion of licensing fees owed by the date due.

See title page for effective date.

CHAPTER 188

H.P. 1052 - L.D. 1502

An Act To Clarify and Update the Laws Related to Property and Casualty Insurance

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 24-A MRSA §2303, sub-§3-A, as enacted by PL 1989, c. 797, §6 and affected by §§37 and 38, is repealed.

PART B

Sec. B-1. 24-A MRSA §2304-A, sub-§1, as amended by PL 2003, c. 671, Pt. A, §1, is further amended to read:

1. Every insurer shall file with the superintendent, except as to inland marine risks, which by general custom of the business are not written according to manual rates or rating plans, every manual rate, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing that it proposes to use. The filing must state the effective date of the filing and indicate the character and extent of the coverage contemplated. The filing must be made not less than 30 days in advance of the stated effective date unless that 30-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 60 days, except that the effective date for filings made electronically may not be suspended. Filings made electronically must be acted on no later than 30 days from receipt unless an extension is requested by the filer.

PART C

Sec. C-1. 24-A MRSA §2908, sub-§1, ¶E, as enacted by PL 1985, c. 671, §1, is amended to read:

E. "Renewal" or "to renew" means the issuance of, or the offer to issue by an insurer, a policy succeeding a policy previously issued and delivered by the same insurer or an affiliate of the insurer or the issuance of a certificate or notice extending the terms of an existing policy for a specified period beyond its expiration date. For the purposes of this section, the transfer of a policy from an insurer to an affiliate is considered a policy renewal.

Sec. C-2. 24-A MRSA §2908, sub-§5, ¶D is enacted to read:

D. For policies providing automobile physical damage coverage, like notice of cancellation or nonrenewal must also be given to any party named in a loss payable clause.

Sec. C-3. 24-A MRSA §2912, sub-§1, as enacted by PL 1973, c. 339, §1, is amended to read:

1. **Policy.** "Policy" means an automobile insurance policy providing bodily injury liability, property damage liability, medical payments, uninsured motorist coverage, physical damage coverage, or any combination thereof, ~~delivery delivered~~ or issued for delivery in this State, insuring a single individual or one or more related individuals resident in the same household, as named insured and insuring vehicles of the following types only:

A. Motor vehicles of the private passenger or station wagon type ~~which that~~ are not used as public conveyances nor rented to others; ~~and~~

B. Any other 4-wheel motor vehicles with a load capacity of 1,500 pounds or less ~~which that~~ are not used in the business or professions of the insured.

Sec. C-4. 24-A MRSA §2912, sub-§2, as amended by PL 2005, c. 114, §1, is further amended to read:

2. **Renewal or renew.** "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the previous policy term a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the coverage of the policy beyond its original term. ~~Any renewal policy with a term of one year or less, other than a replacement policy for an unfinished term, with a term of one year or less is considered written, for the purposes of this subchapter, for a term of one year.~~ For purposes of this subchapter, the transfer of a policy from an insurer to an affiliate is considered a policy renewal.

Any policy written for a term longer than one year or with no fixed expiration date is considered written for successive policy terms of one year for the purposes of this subchapter.

Sec. C-5. 24-A MRSA §2915, as amended by PL 2005, c. 114, §2, is further amended to read:

§2915. Delivery of notice

A notice of cancellation of a policy is not effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. In the event the policy ~~is an~~ provides automobile physical damage ~~policy coverage~~, like notice of cancellation must also be given to any ~~other person party~~ mentioned in the loss payable clause. A postal service certificate of mailing to the named insured at the insured's last known address is conclusive proof of receipt on the 5th calendar day after mailing.

Except for a policy that has been in effect for less than 60 days at the time notice of cancellation is received by the named insured, the reason for cancellation must accompany the notice, together with a notice of the right to apply for a hearing before the ~~Superintendent of Insurance~~ superintendent within 30 days, as provided in section 2920.

~~Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.~~

Sec. C-6. 24-A MRSA §2916-A, first ¶, as enacted by PL 1979, c. 336, §1, is amended to read:

~~No~~ A notice of nonrenewal ~~shall~~ may not be issued, unless it is based upon a reason for which the policy could have been cancelled or unless it is based upon one or more of the following grounds ~~which that~~ occurred during the 36-month period preceding the yearly anniversary date of the policy. A nonrenewal is effective only on the policy's yearly anniversary date.

Sec. C-7. 24-A MRSA §2917, as amended by PL 1979, c. 347, §§5 and 6, is further amended to read:

§2917. Notice of intent

~~No~~ An insurer ~~shall~~ may not fail to renew a policy except by notice to the insured as provided in this subchapter. A notice of intention not to renew ~~shall~~ is not be effective unless received by the named insured at least 30 days prior to the expiration date of the policy. In the event the policy provides automobile physical damage coverage, like notice of intention not to renew must be given to any party named in the loss payable clause. A ~~post office~~ post office department certificate of mailing to the named insured at ~~his~~ the insured's last known address ~~shall be~~ is conclusive proof of receipt on the 3rd calendar day after mailing.

The reason or reasons for the intended nonrenewal action ~~shall~~ must accompany the notice of intent not to renew and the reason or reasons ~~shall~~ must be explicit. Explanations such as "underwriting reasons," "underwriting experience," "loss record," "driving experience," "credit report," and similar insurance terms are not by themselves acceptable explanations of an insurer's intended nonrenewal of an automobile insurance policy. A notice of a right to apply for a hearing before the ~~Superintendent of Insurance~~ superintendent within 30 days as provided ~~herein shall in this section~~ must accompany the notice of intent not to renew.

This section ~~shall~~ does not apply:

1. If the insurer has manifested its willingness to renew;
2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal; or
3. If the insurer has transferred a policy to an affiliate. Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.

Sec. C-8. 24-A MRSA §3007, sub-§8, as amended by PL 1991, c. 25, §2, is further amended to read:

8. This ~~notice~~ section does not apply to any insurance policy that has not been previously renewed if the policy has been in effect less than 60 days at the

time notice of cancellation is mailed or otherwise delivered, except as provided in subsection 1, paragraph A and subsection 5, paragraphs A and C. This section does not apply to any policy subject to ~~the Maine Property Insurance Cancellation Control Act~~, subchapter ~~¶~~ 5. This section does not apply to any policy issued pursuant to any assigned risk plan. The superintendent may suspend, in whole or in part, the applicability of this section to any insurer if, in the superintendent's discretion, its application will endanger the ability of the insurer to fulfill its contractual obligation.

Sec. C-9. 24-A MRSA §3049, sub-§1, as amended by PL 1979, c. 347, §8, is further amended to read:

1. Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating ~~manuel~~ manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use. ~~No~~ A notice of cancellation for nonpayment of premium ~~shall be~~ is not effective unless deemed received under section 3050 after the premium due date;

Sec. C-10. 24-A MRSA §3050, as amended by PL 2005, c. 114, §5, is further amended to read:

§3050. Delivery of notice

A notice of cancellation of a policy is not effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. Like notice must also be given to any party named as mortgagee on the policy. A postal service certificate of mailing to the named insured at the insured's last known address is conclusive proof of receipt on the 5th calendar day after mailing.

Except for a policy that has been in effect for less than ~~60~~ 90 days at the time notice of cancellation is received by the named insured, the reason for cancellation must accompany the notice, together with a notice of the right to apply for a hearing before the ~~Superintendent of Insurance~~ superintendent within 30 days, as provided in section 3054.

~~Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.~~

Sec. C-11. 24-A MRSA §3051, as amended by PL 2005, c. 114, §§6 to 8, is further amended to read:

§3051. Notice of intent

An insurer may not fail to renew a policy except by notice to the insured as provided in this subchapter. A notice of intention not to renew is not effective

unless received by the named insured at least 30 days prior to the expiration date of the policy. Like notice must also be given to any party named as mortgagee on the policy. A post office certificate of mailing to the named insured at the insured's last known address is conclusive proof of receipt on the 3rd calendar day after mailing. The reason must accompany the notice of intent not to renew, together with notification of the right to apply for a hearing before the ~~Superintendent of Insurance~~ superintendent within 30 days as provided.

The reason or reasons for the intended nonrenewal action must accompany the notice of intent not to renew and the reason or reasons must be explicit. Explanations such as "underwriting reasons," "underwriting experience," "loss record," "location of risk," "credit report" and similar insurance terms are not by themselves acceptable explanations of an insurer's intended nonrenewal of a policy insuring property of the kind defined in section 3048. The reason for nonrenewal must be a good faith reason and related to the insurability of the property or a ground for cancellation pursuant to section 3049.

This section does not apply:

1. If the insurer has manifested its willingness to renew;
2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal; or
3. If the ~~insured~~ insurer has transferred a policy to an affiliate.

Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.

See title page for effective date.

CHAPTER 189

H.P. 200 - L.D. 229

An Act To Facilitate the Establishment of Tribal Electric Utility Districts

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §3916 is enacted to read:

§3916. Tribal power districts

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Passamaquoddy Indian territory" has the same meaning as in Title 30, section 6203, subsection 6.

B. "Passamaquoddy Tribe" has the same meaning as in Title 30, section 6203, subsection 7.

C. "Penobscot Indian territory" has the same meaning as in Title 30, section 6203, subsection 9.

D. "Penobscot Nation" has the same meaning as in Title 30, section 6203, subsection 10.

2. Construction and application. This section must be construed to provide the Penobscot Nation and the Passamaquoddy Tribe the opportunity to acquire, develop, finance and provide electric power within their respective Indian territories to allow them to develop a sustainable local economy. The rights applicable to municipal power districts as provided in this chapter apply to any tribal power district of the Penobscot Nation or the Passamaquoddy Tribe.

3. Tribal power districts. Under the authority specified in Title 30, section 6206, subsection 1, the Penobscot Nation and the Passamaquoddy Tribe may form power districts pursuant to this chapter, referred to in this section as "tribal power districts." A tribal power district formed by the Penobscot Nation or the Passamaquoddy Tribe may consist of all or part of the Penobscot Indian territory or the Passamaquoddy Indian territory, respectively. For the purpose of forming a tribal power district, the Penobscot Nation or Passamaquoddy Tribe shall designate appropriate tribal officers and proceedings in place of municipal officers and proceedings to implement the provisions of this chapter and any other laws referenced in this chapter.

Subject to the approval of the commission under sections 2102 and 2105, a tribal power district may furnish electric power transmission, distribution and supply services within the district. An application by a tribal power district to furnish electric power transmission, distribution or supply services must identify the boundaries of the Indian territory to be served. Approval of the commission under sections 2102 and 2105 is not required for a tribal power district to generate or manufacture electricity within the district or to purchase, acquire, accumulate or sell electricity at wholesale or by private contract for use within the tribal power district.

A tribal power district has the same rights, powers, privileges, obligations and limitations of a municipal power district formed under this chapter, including, but not limited to, the issuance of revenue obligation securities; the exemption of district property from taxation under Title 36, section 651; and, in the case of a tribal power district that has received approval from the commission under sections 2102 and 2105, the right of eminent domain as provided under section 3911.